



## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Docket No. FAA-2023-0451; Airspace Docket No. 20-ASO-27]

RIN 2120-AA66

### Establishment of Restricted Areas R-5306G and R-5306H and Amendment of Restricted Areas R-5306C and R-5306D; Cherry Point, NC

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish restricted areas R-5306G and R-5306H at Marine Corps Air Station (MCAS) Cherry Point, NC. The proposed restricted areas would overlie the amended restricted areas R-5306C and R-5306D and the existing R-5306E. This action also proposes minor amendments of 2 latitude/longitude coordinates in R-5306C and R-5306D to align with a refined 3 nautical mile boundary line off the coast, and controlling agency change for R-5306A, R-5306C, R-5306D, and R-5306E to MCAS Cherry Point CERAP. Due to altitude constraints, the existing restricted airspace structure around MCAS Cherry Point cannot fully support the training requirements for current 4th or 5th generation aircraft such as the F-18 and F-35. The proposed restricted areas would provide realistic training to enable pilots and aircrews to deliver real or simulated laser-guided precision guided munitions (PGM) from realistic altitudes.

**DATES:** Comments must be received on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

**ADDRESSES:** Send comments identified by FAA Docket No. 2023-0451 and Airspace Docket No. 20-ASO-27 using any of the following methods:

\* Federal eRulemaking Portal: Go to [www.regulations.gov](http://www.regulations.gov) and follow the online instructions for sending your comments electronically.

\* Mail: Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

\* Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

\* Fax: Fax comments to Docket Operations at (202) 493-2251.

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Docket:* Background documents or comments received may be read at [www.regulations.gov](http://www.regulations.gov) at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Brian Vidis, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

## **SUPPLEMENTARY INFORMATION:**

### **Authority for this Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I,

Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish restricted area airspace at Cherry Point, NC, to enhance aviation safety and accommodate essential U.S. Marine Corps training activities.

### **Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

### **Availability of NPRM**

An electronic copy of this document may be downloaded through the Internet at [www.regulations.gov](http://www.regulations.gov). Recently published rulemaking documents can also be accessed through the FAA's web page at [www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and

phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, GA, 30337.

## **Background**

The U.S. Marine Corps submitted a proposal to the FAA to expand the existing restricted area at MCAS Cherry Point, NC, because the altitude constraints of the current airspace structure cannot fully support U.S. Marine Corps training and readiness requirements for current 4th or 5th generation aircraft, such as the F-18 and F-35. Specifically, the existing restricted areas R-5306C extends from 1,200 mean sea level (MSL) to but not including flight level (FL) 180, and R-5306D and R-5306E extend from the surface to but not including FL180. These altitude constraints limit the U.S. Marine Corps' ability to conduct realistic training by accurately representing laser-guided PGM employment during combat operations. Laser-guided PGMs require high-angle fires delivery techniques that necessitate flying at higher altitudes. The U.S. Marine Corps needs additional, high-altitude restricted airspace up to 27,000 feet MSL to provide a realistic training environment for pilots and aircrews to be better prepared for combat operations.

In conjunction with restricted areas R-5306C, R-5306D, and R-5306E; the proposed R-5306G and R-5306H would provide the airspace needed to contain actual and simulated deliveries of ordnance for training in conducting complex, simultaneous, live-fire missions, and provide realistic training to pilots and aircrews to counter evolving threat nation anti-aircraft capabilities.

## **The Proposal**

The FAA is proposing an amendment to 14 CFR part 73 to establish restricted areas R-5306G and R-5306H, Cherry Point, NC. If established, R-5306G and R-5306H would overlies the amended restricted areas R-5306C and R-5306D and the existing R-5306E. Restricted area R-

5306G would extend from 18,000 feet MSL to 23,000 feet MSL. The time of designation would be Intermittent, 0600-0000 local time Monday-Friday, other times by NOTAM. R-5306H would extend from 23,001 MSL to 27,000 feet MSL. The time of designation would be Intermittent, by NOTAM 4 hours in advance, 0001-1230 local time, May 1-October 31. This action also proposes minor amendments of 2 latitude/longitude coordinates in R-5306C and R-5306D to align with a refined 3 nautical mile boundary line off the coast, and controlling agency change for R-5306A, R-5306C, R-5306D, and R-5306E to MCAS Cherry Point Combined Center Radar Approach Control (CERAP).

Two Air Traffic Service routes, J-174 and Q-101, would be impacted by the proposed restricted areas. However, R-5306G and R-5306H would be joint-use; meaning that the restricted areas would be returned to the controlling agency (FAA, Washington Air Route Traffic Control Center (ARTCC) or Cherry Point CERAP) on a real time basis when not in use by the using agency. Additionally, the FAA proposes to make provisions that would allow the controlling agency to recall the airspace when necessary to accommodate traffic flows. Based on these considerations, the FAA expects minimum impact on commercial aircraft.

### **Regulatory Notices and Analyses**

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### **Environmental Review**

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

### **List of Subjects in 14 CFR Part 73**

Airspace, Prohibited areas, Restricted areas.

### **The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

### **PART 73—SPECIAL USE AIRSPACE**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

### **§ 73.53 North Carolina [Amended]**

2. Section 73.53 is amended as follows:

\* \* \* \* \*

### **R-5306A Cherry Point, NC [Amended]**

By removing the current Controlling Agency and inserting the following in its place:

**Controlling agency.** Marine Corps Air Station Cherry Point Combined Center Radar Approach Control (CERAP).

\* \* \* \* \*

### **R-5306C Cherry Point, NC [Amended]**

**Boundaries.** Beginning at lat. 34°51'01"N., long. 77°05'29"W.;  
to lat. 34°42'01"N., long. 76°54'44"W.;  
to lat. 34°41'51"N., long. 76°56'19"W.;  
to lat. 34°37'36"N., long. 76°56'19"W.;  
thence southwest along a line 3 nautical miles from and parallel to the shoreline  
to lat. 34°34'16"N., long. 77°08'51"W.;  
to lat. 34°34'31"N., long. 77°08'59"W.;  
to lat. 34°44'51"N., long. 77°14'39"W.;  
to lat. 34°49'31"N., long. 77°09'59"W.;  
thence to the point of beginning.

**Designated altitudes.** From 1,200 feet MSL to, but not including FL 180.

**Time of designation.** Continuous.

**Controlling agency.** Marine Corps Air Station Cherry Point CERAP.

**Using agency.** USMC, Commanding Officer, U.S. Marine Corps Air Station Cherry Point, NC.

#### **R-5306D Cherry Point, NC [Amended]**

**Boundaries.** Beginning at lat. 34°44'51"N., long. 77°14'39"W.;  
to lat. 34°34'31"N., long. 77°08'59"W.;  
to lat. 34°34'16"N., long. 77°08'51"W.;  
thence southwest along a line 3 nautical miles from and parallel to the shoreline  
to lat. 34°30'26"N., long. 77°15'55"W.;  
to lat. 34°33'01"N., long. 77°18'59"W.;  
to lat. 34°36'06"N., long. 77°26'07"W.;  
to lat. 34°40'01"N., long. 77°21'59"W.;  
to lat. 34°39'11"N., long. 77°20'49"W.;  
thence to the point of beginning.

**Designated altitudes.** Surface to, but not including FL 180.

**Time of designation.** Continuous.

**Controlling agency.** Marine Corps Air Station Cherry Point CERAP.

**Using agency.** USMC, Commanding General, Marine Corps Installations East-Marine Corps Base Camp Lejeune, NC.

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#### **R-5306E Cherry Point, NC [Amended]**

By removing the current Controlling Agency and inserting the following in its place:

**Controlling agency.** Marine Corps Air Station Cherry Point CERAP.

\* \* \* \* \*

#### **R-5306G Cherry Point, NC [New]**

**Boundaries.** Beginning at lat. 34°51'01"N., long. 77°05'29"W.;  
to lat. 34°42'01"N., long. 76°54'44"W.;  
to lat. 34°41'51"N., long. 76°56'19"W.;  
to lat. 34°37'36"N., long. 76°56'19"W.;  
thence southwest 3 NM from and parallel to the shoreline  
to lat. 34°30'26"N., long. 77°15'55"W.;  
to lat. 34°33'01"N., long. 77°18'59"W.;  
to lat. 34°36'06"N., long. 77°26'07"W.;  
to lat. 34°38'13"N., long. 77°25'59"W.;  
to lat. 34°40'21"N., long. 77°22'11"W.;  
to lat. 34°40'01"N., long. 77°21'59"W.;  
to lat. 34°39'11"N., long. 77°20'49"W.;  
to lat. 34°44'51"N., long. 77°14'39"W.;

to lat. 34°49'31"N., long. 77°09'59"W.;

to the point of beginning.

**Designated altitudes.** 18,000 feet MSL to 23,000 feet MSL.

**Time of designation.** Intermittent, 0600-0000 local time Monday-Friday, other times by NOTAM.

**Controlling agency.** Marine Corps Air Station Cherry Point CERAP.

**Using agency.** USMC, Commanding Officer, U.S. Marine Corps Air Station Cherry Point, NC.

#### **R-5306H Cherry Point, NC [New]**

**Boundaries.** Beginning at lat. 34°51'01"N., long. 77°05'29"W.;

to lat. 34°42'01"N., long. 76°54'44"W.;

to lat. 34°41'51"N., long. 76°56'19"W.;

to lat. 34°37'36"N., long. 76°56'19"W.;

thence southwest 3 NM from and parallel to the shoreline

to lat. 34°30'26"N., long. 77°15'55"W.;

to lat. 34°33'01"N., long. 77°18'59"W.;

to lat. 34°36'06"N., long. 77°26'07"W.;

to lat. 34°38'13"N., long. 77°25'59"W.;

to lat. 34°40'21"N., long. 77°22'11"W.;

to lat. 34°40'01"N., long. 77°21'59"W.;

to lat. 34°39'11"N., long. 77°20'49"W.;

to lat. 34°44'51"N., long. 77°14'39"W.;

to lat. 34°49'31"N., long. 77°09'59"W.;

to the point of beginning.

**Designated altitudes.** 23,001 feet MSL to 27,000 feet MSL.

**Time of designation.** Intermittent, by NOTAM 4 hours in advance, 0001-1230 local time May 1 – October 31.

**Controlling agency.** FAA, Washington ARTCC.

**Using agency.** USMC, Commanding Officer, U.S. Marine Corps Air Station Cherry Point, NC.

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Issued in Washington, DC, on March 23, 2023.

Brian Konie,

Acting Manager, Airspace Rules and Regulations Group.

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